

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Performance Measurements and Standards For Special Access Services)	CC Docket No. 01-321
)	
Petition of U S West, Inc., for a Declaratory Ruling Preempting State Commission Proceedings to Regulate U S West's Provision of Federally Tariffed Interstate Services)	CC Docket No. 00-51
)	
Petition of Association for Local Telecommunications Services for Declaratory Ruling)	CC Docket Nos. 98-147, 96-98, 98-141
)	
Implementation of the Non-Accounting Safeguards Of Sections 271 and 272 of the Communications Act Of 1934, as amended)	CC Docket No. 96-149
)	
2000 Biennial Regulatory Review - Telecommunications Service Quality Reporting Requirements)	CC Docket No. 00-229
)	
AT&T Corp. Petition to Establish Performance Standards, Reporting Requirements, and Self-Executing Remedies Needed to Ensure Compliance by ILECs With Their Statutory Obligations Regarding Special Access Services)	RM 10329
)	

COMMENTS OF VOICESTREAM WIRELESS CORP.

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January 22, 2002

SUMMARY

VoiceStream applauds the Commission's consideration of adopting measures to track the ordering, installation, and maintenance of ILEC performance in provisioning tariffed interstate special access services to competitive carriers. CMRS carriers are particularly dependent upon ILECs for the provision of tariffed high capacity circuits. There are few, if any, other providers of these necessary facilities in the expanding areas where CMRS carriers build-out their networks. It is not economical for CMRS carriers to provision such facilities themselves. And, to date, the Commission has not confirmed that CMRS carriers are entitled to obtain these facilities as unbundled network elements.

The ILECs continue to provide unsatisfactory service to CMRS carriers with respect to ordering, installation, and maintenance of tariffed interstate special access services. For over five years, VoiceStream has tracked the service performance of Verizon in the New York MTA. By affidavit, VoiceStream provides data to illustrate that service has declined during this period and remains at unsatisfactory levels.

Therefore, VoiceStream urges the Commission to adopt the performance measurements contained in the Joint Industry Proposal that WorldCom proposes. It is superior to the Texas and New York plans already in effect, and its broad-based industry support will facilitate its implementation.

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COMMENTS OF VOICESTREAM WIRELESS CORP.

VoiceStream Wireless Corp. ("VoiceStream") respectfully submits its comments in the Notice of Proposed Rulemaking the Commission released by notice on November 19, 2001 in this consolidated proceeding.¹ VoiceStream applauds the Commission's initiative to adopt

¹ *Performance Measurements and Standards For Special Access Services, Petition of U S West, Inc., for a Declaratory Ruling Preempting State Commission Proceedings to Regulate U S West's Provision of Federally Tariffed Interstate Services, Petition of Association for Local Telecommunications Services For Declaratory Ruling Implementation of the Non-Accounting Safeguards of Sections 271 and 272 of the Communications Act of 1934, as amended, 2000 Biennial Regulatory Review – Telecommunications Service Quality Reporting Requirements, AT&T Corp. Petition to Establish Performance Standards, Reporting Requirements, and Self-Executing Remedies Needed to Ensure Compliance by ILECs with Their Statutory Obligations Regarding Special Access Services, CC Docket*

standards governing the performance of incumbent local exchange carriers (“ILECs”) with respect to their provision of special access services to competitive carriers – including providers of commercial mobile radio services (“CMRS”). Facilities-based competition and consumer choice will continue to be harmed by the poor performance of ILECs in providing and supporting these critical facilities, unless the Commission promptly implements meaningful measures to improve ILEC special access services ordering, installation, and maintenance performance.

VoiceStream’s own experience over the past five years verifies that the absence of effective enforcement mechanisms gives ILECs no incentive to provision and maintain special access facilities for their competitors in a timely and reliable manner. In fact, the ILECs have a huge financial interest in inhibiting the deployment of new networks that compete for ILEC customers.²

VoiceStream has documented for the Commission an example of typical problems that it experience with the ILECs. ILECs consistently have provided poor service to CMRS carriers and other captive users of high capacity facilities. As the Commission has observed, state commissions have already recognized the need for special access performance metrics for intrastate tariff services.³ Absent Commission action to impose performance metrics on

Nos. 01-321, 00-51, 98-147,96-98, 98-141, 96-149, 00-229 and RM 10329, *Notice of Proposed Rulemaking*, rel. Nov. 19, 2001 (“NPRM”).

² See e.g., Shawn Young, *More Callers Cut Off Second Phone Lines for Cell Phones, Cable Modems*, WALL STREET JOURNAL, Nov. 15, 2001, at B1.

³ *NPRM* at ¶ 16.

interstate special access, the unfortunate history of ILEC mal-performance will continue to repeat itself.

I. CMRS Carriers Depend Heavily Upon ILEC Tariffed Special Access.

The NPRM is mistaken in suggesting that the use of special access facilities is limited to landline carrier connections to their customers.⁴ In fact, providers of CMRS also make extensive use of special access facilities. CMRS carriers use these facilities to connect their mobile switching centers (“MSCs”) to dozens of cell sites (or base station transceivers) that subtend each MSC.

CMRS carriers remain heavily dependent on the special access facilities provided by ILECs. Competitive local exchange carriers (“CLECs”) generally build their alternate facilities in highly populated city centers or high-tech corridors. CMRS carriers provide service in these densely populated areas, but they also provide their mobile services in suburban and rural areas.

⁴ See NPRM at ¶ 1 (“Special access services are important in that they are used to connect an end user with a competitive LEC’s or interexchange carrier’s point of presence.”). VoiceStream is concerned that the *NPRM* fails to recognize that high capacity services are as important to CMRS carriers as they are to CLECs and IXC’s, when VoiceStream has made known to the Commission for years its serious concerns about ILEC special access provisioning and the unavailability of UNEs to CMRS carriers. *Compare*, NPRM at ¶ 1 with *Omnipoint 271 Comments*, at 7 (“Omnipoint relies exclusively upon BA to provision DS-1 or T-1 high capacity loops in New York and in other states throughout BA’s region where Omnipoint offers service.”); *Application of Bell Atlantic-New York for Authorization Under Section 271 of the Communications Act To Provide In-Region, InterLATA Service in the State of New York*, CC Docket No. 99-295, *Ex Parte Presentation of Omnipoint Communications, Inc.*, November 3, 1999, at 1 (“Omnipoint’s presentation urged the Commission not to approve Bell Atlantic’s (“BA”) current application. . . because BA has not provided Omnipoint with nondiscriminatory access to unbundle network elements, particularly to dedicated local transport facilities (DS-1s and DS-3s).”); Letter from Douglas G. Bonner, LeBoeuf, Lamb, Greene & MacRae, L.L.P. to Magalie Roman Salas, Secretary, Federal Communications Commission (July 26, 2001)(documenting July 25, 2001 *ex parte* meeting in which VoiceStream discussed “issue of incumbent LECs’ failure to provide unbundled network elements to CMRS carriers” with Commission Staff); Letter from Douglas G. Bonner, LeBoeuf, Lamb, Greene & MacRae, L.L.P. to Magalie Roman Salas, Secretary, Federal Communications Commission (September 27, 2001)(documenting September 26, 2001 *ex parte* meeting in which VoiceStream discussed “the issue of CMRS traffic routing patterns and intercarrier relationships” with Commission Staff); and Letter from Douglas G. Bonner, LeBoeuf, Lamb, Greene & MacRae, L.L.P. to Magalie Roman Salas, Secretary, Federal Communications Commission (November 6, 2001)(documenting November 2, 2001 *ex parte* meeting in which VoiceStream discussed “issue of CMRS carrier access to Unbundled Network Elements (including special access)” with Commission Staff).

In these suburban and rural areas, CMRS generally have no choice but to use ILEC facilities.⁵ Moreover, in these areas, consumers and business customers often rely on expanding CMRS networks as their only alternative to the ILEC services.

Prior to the enactment of the 1996 Act, ILECs offered the facilities CMRS carriers need only pursuant to their special access tariffs. Congress amended the Communications Act in 1996 to give carriers like VoiceStream additional choices. The transport facilities that CMRS carriers need to connect their MSCs with their base stations fall within the definition of “unbundled network elements,”⁶ so VoiceStream and others began asking ILECs to provision these facilities pursuant to the UNE rules. ILECs, however, generally refuse to provide these UNEs to CMRS carriers, and on November 19, 2001 VoiceStream and AT&T Wireless filed a petition for declaratory ruling asking the Commission to order ILECs to provide these UNEs to them.⁷ The Commission recently asked for public comment on these issues.⁸ Until the Commission completes its review, and so long as ILECs choose to ignore their unequivocal obligations under

⁵ Self-provisioning of the circuits needed to connect MSCs with cell sites is not a viable option for most CMRS carriers. In most suburban and all rural areas, one or two DS1 circuits are needed to each base station. The time and cost of securing necessary right-of-way authority and the cost of trenching or hanging on poles a few copper pair cannot be cost justified – especially when the ILEC usually has ample capacity resident in existing copper pairs or fiber strands. As the only user of these DS1 facilities, there is no economy of scale that would justify and offset the expense of building and maintaining such facilities to dozens of different locations in an area served by a single MSC.

⁶ The Act defines a “network element” to include “a facility or equipment used in the provision of a telecommunications service.” 47 U.S.C. § 153(29). *See also* 47 U.S.C. § 251(c)(3)(requiring ILECs to unbundle their network elements). The transport circuits CMRS carriers use to connect MSCs with base stations are “a facility . . . used in the provision of a telecommunications service.” This conclusion is buttressed by last week’s Supreme Court decision in *NCTA v. Gulf Power*, No. No. 00-832 (Jan. 16, 2002), which reaffirms that CMRS carriers are “telecommunications carriers” under the Communications Act.

⁷ *See* VoiceStream and AT&T Wireless Petition for Declaratory Ruling, CC Docket No. 96-98 (Nov. 19, 2001).

⁸ *See Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, CC Docket Nos. 01-339, 96-98 and 98-147, *Notice of Proposed Rulemaking*, FCC 01-361 (Dec. 20, 2001).

the Communications Act, CMRS carriers have no choice as a practical matter but to acquire needed facilities from ILECs pursuant to their special access tariffs. As a result, CMRS carriers remain particularly vulnerable to discriminatory and unsatisfactory ILEC provisioning of special access facilities.

It is important to note that without prompting from the Commission, the ILECs have a strong economic incentive to cling to the *status quo* by selling only high-priced, bundled tariffed services. The checklist in the interLATA relief statute, Section 271, requires the Bell operating companies (“BOCs”) to provide non-discriminatory access to UNEs, but not to their special access services.⁹ The BOCs obviously hope that they can secure interLATA relief, deny CMRS carriers the benefits of the UNE rules, and continue to sell their facilities at inflated tariffed prices.

The provision of special access services pursuant to interstate tariffs has not been accorded appropriate Commission review to date. Carriers such as VoiceStream have been forced to rely on disparate tariff conditions that are generally difficult to measure or enforce, in an effort to obtain commercially adequate ILEC provisioning and maintenance. If requiring provision of UNEs has not been considered a condition precedent to Section 271 relief by the Commission, it ought to be a condition subsequent for the BOCs retaining Section 271 relief.

New CMRS broadband services, such as VoiceStream’s iStream service, compete with other broadband service providers, including those offered by ILECs.¹⁰ Most observers expect this competition to intensify dramatically as CMRS carriers expand the coverage of their new

⁹ See 47 U.S.C. § 271(c)(2)(B)(ii).

advanced services and continue to deploy new technologies to offer even faster transmission rates.¹¹ CMRS carriers are competitively penalized *vis-à-vis* their landline-based counterparts by having to pay substantially higher retail tariff rates for the same facilities that others obtain as UNEs. The ILEC broadband units also benefit from this lower cost structure.

CMRS carriers and ILECs compete head-to-head in three discrete markets:

- Mobile service offers an alternative to traditional wireline local exchange service for both business and residential consumers, especially in the non-metropolitan areas where CLECs often have no presence;
- CMRS operators compete increasingly with ILEC-affiliated broadband business units as new advanced wireless services are being rolled out; and
- In areas where ILECs offers their own long distance services, they compete with the long distance services provided by CMRS carriers.

CMRS carriers literally are at the mercy of their incumbent competitors for the delivery of critical input services across their full range of service offerings at fully loaded prices.

Without effective intervention by the Commission, ILECs can continue to deny CMRS carriers reliable and timely special access facility provisioning with unbundled cost-based pricing, thereby frustrating CMRS continued growth and success potential – and what is more, frustrating the most viable ILEC alternatives in most suburban and rural areas.

II. Available Data Document that ILEC Provisioning of Special Access Circuits Is Getting Worse, Not Better.

VoiceStream and other competitive carriers have documented a record of poor ILEC performance with respect to the ordering process, installation service, and ongoing maintenance for special access facilities. By way of an example, VoiceStream has compiled data reflecting

¹⁰ Deborah Mendez-Wilson, *VoiceStream Gives iStream Official Sendoff*, WIRELESS WEEK, Nov. 19, 2001, at 3.

¹¹ *See id.*

this poor service dating back to 1996 when it first started building out its New York network.

VoiceStream, therefore, has no reason to believe that the ILEC in New York will improve this performance absent effective Commission intervention. Similar cases can be presented for virtually all ILECs.

Omnipoint Corporation, prior to its merger with VoiceStream, submitted data supported by affidavits with this Commission in October 1999,¹² detailing Bell Atlantic's failure to provide adequate installation and repair and maintenance of special access facilities. VoiceStream has gathered data for the same operating areas for the last two years, which data illustrate that nothing has changed since 1997 to create incentives for Bell Atlantic, now Verizon, to offer improved special access provisioning to its competitors. Indeed this explains why at least three leading state regulatory commissions (New York, Massachusetts, and Texas) have initiated rulemakings to adopt performance metrics governing ILEC intrastate special access provisioning. Although the data VoiceStream presents in these comments represent a single BOC's performance, VoiceStream believes that it is representative of virtually all ILECs. According to the BOCs' 2000 Annual Reports, Verizon is the largest of the ILECs, with over

¹² In the *Omnipoint 271 Comments*, Omnipoint provided three affidavits demonstrating Bell Atlantic's poor service performance. First, Mr. Richard Johnson, Network Engineering Manager, provided data that demonstrated Bell Atlantic's consistent failure to meet Firm Order Commitment dates from 1996 to 1999. He also commented on Bell Atlantic's failure to provide notice to Omnipoint when Bell Atlantic was going to miss a Firm Order Commitment date, thereby delaying Omnipoint's planned network deployment dates. See *Affidavit of Richard Johnson*, at 1. Mr. Dale Eckhoff, Network Operations Center Manager, discussed two consistently recurring problems Omnipoint experienced with Bell Atlantic's provision of T-1s in New York: "costly and unnecessary delays due to BA's arbitrary and inconsistent implementation of a new policy with regard to repairs of T-1 outages" and "undue delay in BA repairing T-1 outages that could be fixed more quickly if BA treated Omnipoint as an important customer rather than a 'second class citizen.'" *Affidavit of Dale Eckhoff*, at 2. Mr. Eckhoff further opined that Bell Atlantic "does not exhibit a similar lack of concern for T1 outages that support Bell Atlantic's landline telephone network, and that Bell Atlantic's own T1 outages do not endure for 18 and 30 hours in major metropolitan areas." *Id.* at 7. Finally, Mr. Pasquale Amato, Switch Team Leader, discussed Bell Atlantic's technician's delays in reporting to service appointments and the severe hardship that such uncertainty places on Omnipoint's maintenance resources. *Affidavit of Pasquale Amato*, at 2-3.

\$64 billion in annual revenue (compared to \$51 billion, \$26 billion, and \$19 billion, respectively for SBC, BellSouth and Qwest). Further, if the Commission approves the pending 271 applications in New Jersey and Rhode Island in the next few of months, Verizon will have obtained more than half of the 11 authorizations for interLATA entry the Commission has granted ILECs to date.¹³ Clearly, Verizon performance is illustrative of a significant segment of all special access provisioning that ILECs perform.

The data in the following chart¹⁴ compare Verizon's service during the combined years 1997-1999¹⁵ with its service in 2000 and 2001 in the New York MTA Locale:¹⁶

¹³ Verizon has 271 authority in New York, Connecticut, Pennsylvania, and Connecticut. With the addition of the two pending states, Verizon will have in-region, interLATA authority in states, which according to the 2000 census contain nearly 20% of the entire U.S. population.

¹⁴ See Affidavit of Richard Johnson, attached hereto as Exhibit A.

¹⁵ Omnipoint submitted the 1999 data by affidavit of Richard Johnson in *Omnipoint 271 Comments*. See *supra* note 14.

¹⁶ VoiceStream selected this geographic area because it is the same area for which Omnipoint provided data in the *Omnipoint 271 Comments*. Presenting updated information for the same area allows VoiceStream to demonstrate the continuity of Verizon's special access provisioning performance over a longer period of time.

NEW YORK MTA LOCALE	% MISSED FOCS ¹⁷			AVG. DAYS FOC IS LATE ¹⁸		
	1997-1999	2000	2001	1997-1999	2000	2001
Lower Manhattan-NY01	48%	88%	73%	18	26	26
Upper Manhattan-NY02	30%	85%	73%	9	51	30
Bronx-NY03	21%	83%	73%	12	32	19
Brooklyn-Queens-NY04	54%	87%	76%	43	23	47
Northern NJ-NY05	52%	43%	64%	17	12	12
Central NJ – NY06	51%	80%	74%	5	18	10
Western NJ – NY07	43%	67%	46%	3	16	13
Southern NJ – NY08	59%	58%	58%	7	20	4
Westchester County – NY09	94%	92%	80%	7	18	32
Orange, Dutchess & Ulster Counties - NY10	79%	50%	75%	15	65	4
Nassau County - NY12	40%	-	68%	27	-	10
Suffolk County - NY13	25%	-	86%	41	-	19
TOTAL	49%	71%	72%	13	24	30

As these data demonstrate, Verizon’s record of provisioning special access services, when measured as a percentage of circuit installations completed by the Firm Order Commitment (“FOC”) date, continues to deteriorate. In the New York MTA, over the past two years, Verizon has failed to provision over 70 percent of the circuits VoiceStream ordered by the FOC date. This poor performance is particularly significant because VoiceStream has no input in or control over the identification of the FOC date, other than initially requesting a date by which it prefers an installation be complete. The ILEC has sole control over establishing the FOC date. Not only has Verizon’s performance declined from achieving its proposed installation date only 50 percent of the time to barely one-fourth the time, but the number of days by which it misses the

¹⁷ A FOC is a commitment date the ILEC provides its special access customer, designating the date on which the installation will be complete.

¹⁸ The average days a FOC is late is based only on circuits for which Verizon missed the FOC date.

scheduled date has similarly worsened. The magnitude of the average delay, in days, has nearly trebled. That is, in the 1997-1999 time frame, Verizon missed the promised installation date, on average, by 13 days. Today Verizon delivers requested circuits, on average, nearly a full month after the FOC date. The trend is disturbing.

In light of the service area VoiceStream has selected for its analysis,¹⁹ it recognizes the need to normalize the data to account for any adverse effect of the September 11, 2001 terrorist attacks on Verizon's ability to provision circuits in a timely fashion. In the following chart, those circuits that VoiceStream ordered and Verizon accepted prior to September 11th are analyzed separately from those whose completion occurred since then. Clearly, a degradation of service following September 11th should be anticipated, and VoiceStream in no way intends for Verizon's performance after September 11 to be the basis of its comments. In analyzing the data, it is important to recognize that immediately after September 11, 2001, VoiceStream curtailed its equipment orders for lower Manhattan. Moreover, Verizon most understandably rerouted its resources to prioritize reconstruction of its facilities in the affected area. However, Verizon's service performance in 2001 up until September 11 had clearly not improved over prior years. In the aggregate, Verizon has been over 14,000 days late during 2001 in provisioning of four hundred and sixty-eight circuits for VoiceStream.

¹⁹ See *supra* note 16.

NEW YORK MTA LOCALE	% MISSED FOCS		AVG. DAYS FOC IS LATE ²⁰	
	Pre-9/11	Post-9/11	Pre-9/11	Post-9/11
Lower Manhattan-NY01	78%	64%	20	37
Upper Manhattan-NY02	63%	87%	18	43
Bronx-NY03	67%	77%	16	21
Brooklyn-Queens-NY04	76%	76%	16	72
Northern NJ-NY05	69%	57%	13	10
Central NJ – NY06	68%	88%	10	10
Western NJ – NY07	63%	20%	12	16
Southern NJ - NY08	59%	50%	4	2
Westchester County - NY09	80%	-	32	0
Orange, Dutchess & Ulster Counties – NY10	67%	100%	6	1
Nassau County - NY12	67%	69%	3	12
Suffolk County - NY13	91%	67%	22	2
TOTAL	72%	72%	19	67

III. The Commission Should Adopt the Joint Industry Proposal WorldCom Has Proposed.

VoiceStream urges the Commission to adopt the special access metrics that WorldCom has prepared (the “Joint Industry Proposal” or “JIP”) and that VoiceStream understands a large number of competitive carriers intend to support.²¹ Adoption of a set of enforceable and effective standards is critical to obtaining relief from poor ILEC special access provisioning. The broad-based competitive support for the JIP will allow the Commission to focus on addressing the anticipated objections of the ILECs rather than having to confront the exercise of examining varying sets of metrics proposed by different CMRS carriers, IXC, and CLECs.

²⁰ The average days a FOC is late is based only on circuits for which Verizon missed the FOC date.

²¹ Although the JIP identifies only CLECs and IXCs as users of special access, the standards themselves are clearly applicable to all wholesale special access customers, including CMRS carriers.

The JIP offers a superior solution to that adopted by the Texas Public Utility Commission with respect to interstate special access services. The Texas plan applies intrastate UNE metrics to intrastate special access circuits, since there were not enough intrastate special access circuits in Texas when the plan was developed to warrant service-specific metrics for special access. Further, since the same companies that were instrumental in developing the Texas UNE metrics²² played a significant role in developing the JIP, it can be viewed as a refinement and improvement over the earlier Texas specific effort. Between the two performance plans, therefore, the JIP plan is more appropriate for interstate special access service quality measurement.

The JIP metrics also are superior to those the New York Public Service Commission adopted. For example, the JIP would measure the percentage of time an ILEC completes an installation by a FOC due date, and compares the competitive carrier's requested installation interval to the ILEC's guaranteed interval and then to the actual interval by which the services was completed. The JIP also tracks the number of promised installations that have not been completed. These are critical measurements that the competitive industry sought, but was denied, in the New York proceeding. As VoiceStream data highlight, these are measurements, in which at least one BOC's performance has been abysmal. As a result of Verizon's poor performance, VoiceStream has suffered lost customers as well as delayed and more costly rollouts of its network. If this performance is not fully captured by comprehensive performance

²² It is VoiceStream's understanding that WorldCom and Time Warner Telecommunications played significant leadership roles in both the development of the Texas measures and the JIP.

metrics, such metrics will not fully achieve their objective of accurately reflecting ILEC performance that impacts facilities-based competitors.

VoiceStream anticipates that the ILECs will find the JIP – or any proposed reporting requirements – onerous and unnecessary. However, the Commission must nevertheless adopt and enforce such performance measures to promote the ultimate end – improved special access service provisioning and maintenance.

IV. Conclusion.

For the foregoing reasons, VoiceStream asks the Commission to adopt the JIP and enforce the provisions therein on a national basis.

Respectfully submitted,

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COMMENTS OF VOICESTREAM COMMUNICATIONS CORPORATION

EXHIBIT A

AFFIDAVIT OF RICHARD JOHNSON

Richard Johnson, being duly sworn upon oath, deposes and states as follows:

1. My name is Richard Johnson. For the past four and one-half years, I have been employed by VoiceStream Wireless Corporation ("VoiceStream") and its predecessor in interest, Omnipoint Communications, Inc. I currently hold the position of Technical Director, Regional Network Engineering. My business address is 16 Wing Drive, Cedar Knolls, NJ 07927. I am

principally responsible for VoiceStream's network planning and provisioning in the states of New Jersey, Connecticut, and portions of New York. I have twenty-one years of experience in the telecommunications industry.

2. In my capacity as Technical Director, I regularly track installation of facilities by Verizon to VoiceStream in my assigned states. I am responsible for the compilation of performance reports concerning Verizon's record of meeting "Firm Order Commitment" ("FOCs") for the installation of dedicated point-to-point T-1 facilities VoiceStream requires for the build-out of its network. According to the VoiceStream data maintained in the normal course of VoiceStream business, which data I have organized and analyzed, Verizon's record in New York for meeting its own FOC dates for T-1 installations for Omnipoint in the New York City Greater Metropolitan Area ("NYC") has been abysmal.

3. The following chart summarizes Verizon's record of meeting FOC dates for VoiceStream since 1997 in the New York MTA Locale:

NEW YORK MTA LOCALE	% MISSED FOCS			AVG. DAYS FOC IS LATE²³		
	1997-1999	2000	2001	1997-1999	2000	2001
Lower Manhattan-NY01	48%	88%	73%	18	26	26
Upper Manhattan-NY02	30%	85%	73%	9	51	30
Bronx-NY03	21%	83%	73%	12	32	19
Brooklyn-Queens-NY04	54%	87%	76%	43	23	47
Northern NJ-NY05	52%	43%	64%	17	12	12
Central NJ - NY06	51%	80%	74%	5	18	10
Western NJ - NY07	43%	67%	46%	3	16	13
Southern NJ - NY08	59%	58%	58%	7	20	4
Westchester County - NY09	94%	92%	80%	7	18	32

²³ The average days a FOC is late is based only on circuits for which Verizon missed the FOC date.

NEW YORK MTA LOCALE	% MISSED FOCS			AVG. DAYS FOC IS LATE ²³		
	1997-1999	2000	2001	1997-1999	2000	2001
Orange, Dutchess & Ulster Counties - NY10	79%	50%	75%	15	65	4
Nassau County - NY12	40%	-	68%	27	-	10
Suffolk County - NY13	25%	-	86%	41	-	19
TOTAL	49%	71%	72%	13	24	30

4. The following chart shows the 2001 data, separated into pre- and post- September 11, 2001 performance to account for the September 11, 2001 attack on New York City:

NEW YORK MTA LOCALE	% MISSED FOCS		AVG. DAYS FOC IS LATE ²⁴	
	Pre-9/11	Post-9/11	Pre-9/11	Post-9/11
Lower Manhattan-NY01	78%	64%	20	37
Upper Manhattan-NY02	63%	87%	18	43
Bronx-NY03	67%	77%	16	21
Brooklyn-Queens-NY04	76%	76%	16	72
Northern NJ-NY05	69%	57%	13	10
Central NJ – NY06	68%	88%	10	10
Western NJ – NY07	63%	20%	12	16
Southern NJ – NY08	59%	50%	4	2
Westchester County - NY09	80%	-	32	0
Orange, Dutchess & Ulster Counties – NY10	67%	100%	6	1
Nassau County – NY12	67%	69%	3	12
Suffolk County – NY13	91%	67%	22	2
TOTAL	72%	72%	19	67

5. This concludes my affidavit.

²⁴ The average days a FOC is late is based only on circuits for which Verizon missed the FOC date.

I swear under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Richard Johnson

Richard Johnson

STATE OF NEW JERSEY)

COUNTY OF MORRIS)

Sworn to before me this 22nd day of January 2002.

Notary Public

My Commission Expires _____

